

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John Alexander Gaskarth)

Serial No.: 09/980,383)

Filed: 11/30/2001)

For: Material for Use in a Fluid Transfer System)

Group Art Unit: 1771

Examiner: Elizabeth M. Cole

December ²³ 17, 2003

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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OFFICE OF PETITIONS

**PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181**

Applicant John Alexander Gaskarth, through his counsel of record, requests that the holding of abandonment of patent application serial number 09/980,383 be withdrawn pursuant to 37 CFR 1.181(a). A response to office action was timely transmitted to the United States Patent and Trademark Office ("USPTO"), but was not found in the USPTO's file. Applicant, through his counsel, has been informed that as the Application has been declared abandoned, a petition is necessary to resolve the error.

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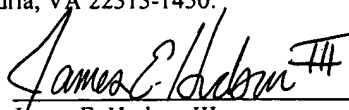
I. Petition Request and Basis

The holding of abandonment of U.S. patent application serial number 09/980,383 (the "instant application") should be withdrawn. A response to Office Action was timely received by the USPTO.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below in an envelope as "Express Mail Post Office to Addressee": Mailing Label Number ER 216 165 453 US addressed to "Mail Stop Petitions, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450."

Date: December 23, 2003


James E. Hudson III
Registration No. 41,081

II. Supporting Argument and Evidence

A. Petition is Timely

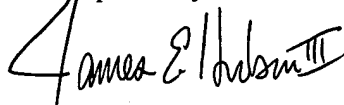
On December 11, 2003 the USPTO tendered notice that the instant application was abandoned. **Exhibit 1.** Pursuant to 37 CFR 1.181(f), this Petition is timely as it is filed within two months of the mailing date of the action from which relief is sought.

B. Petition is Well Taken – Response to office Action Timely Filed

The holding of abandonment should be withdrawn as a response to office action was timely filed. On May 1, 2003 the Patent Examiner issued a first office action, which also set a three-month shortened statutory period for response, an August 1, 2003 deadline. **Exhibit 2, Office Action.** On September 2, 2003, Applicant tendered by facsimile transmission a response to office action, request for one-month extension, and authorization to charge fees (the “Response to Office Action Packet.”), which included authorization and payment for a one-month extension of time. **Exhibit 3, Response to Office Action Packet; Exhibit 4, Fax transmittal for Response to Office Action Packet.** The apparent last day to file a request for one-month extension and tender a response to the office action in the USPTO would be September 1, 2003; however such day was the Federal holiday of Labor Day. **Exhibit 5, U.S. Office of Personnel Management identification of 2003 Federal Holidays.** Pursuant to 35 U.S.C. § 21 and 37 CFR 1.7(a), the day for requesting a one-month extension of time and filing a response to office action therefore was the next succeeding business day which was not a Saturday, Sunday, or Federal holiday – September 2, 2003. The Response to Office Action Packet was received by the USPTO on September 2, 2003. **Exhibit 6, USPTO auto-reply for Response to Office Action Packet.**

In light of the timely filing by Applicant of a response to office action, it is respectfully requested that the holding of abandonment for the instant patent application be withdrawn.

Respectfully submitted,

A handwritten signature in black ink, reading "James E. Hudson III". The signature is written in a cursive style with a large initial "J" and "H".

James E. Hudson III
Registration No. 41,081

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